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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,325	05/18/2005	David A. Cheresh	TSR1 651.6	5729
<div>.2387 7590 07/02/2007 OLSON & HIERL, LTD. 20 NORTH WACKER DRIVE 36TH FLOOR CHICAGO, IL 60606</div>			<div>EXAMINER PROUTY, REBECCA E</div> <div>ART UNIT PAPER NUMBER 1652</div> <div>MAIL DATE DELIVERY MODE 07/02/2007 PAPER</div>	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/535,325	Applicant(s) CHERESH ET AL.	
	Examiner Rebecca E. Prouty	Art Unit 1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-13, and 21-28 drawn to drawn to methods of methods of treating or preventing myocardial infarction by treating with compositions of a Src family tyrosine kinase inhibitor.

Group II, claim(s) 14-20, drawn to drawn to pharmaceutical compositions of a Src family tyrosine kinase inhibitor.

Group III, claim(s) 29-33, drawn to methods of making a pharmaceutical composition of a Src family tyrosine kinase inhibitor.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the only shared technical feature among each of the above groups is that they are all Src kinase inhibitors. However, this shared technical feature does not constitute a special technical feature as defined by PCT Rule 13.2 as it does define a contribution over the art. Hanke et al., Feng et al. (US Patent 5,731,343) and

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Hirst et al. (US Patent Application 2002/0156081) each teach a Src kinase inhibitor.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows: Src kinase inhibitors: 4-amino-5-(4-methylphenyl)-7-(t-butyl) pyrazolo [3,4-d] pyrimidine (AGL 1872), 4-amino-5-(4-chlorophenyl)-7-(t-butyl) pyrazolo [3,4-d] pyrimidine (AGL 1879), geldanamycin, herbimycin A, Radicicol R2146, PD173955 and SKI-606.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant

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must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 1-6, 10-17, 21-27 and 29-31 are drawn to the species of 4-amino-5-(4-methylphenyl)-7-(t-butyl) pyrazolo [3,4-d] pyrimidine (AGL 1872),

Claims 1-6, 10-17, 21-27 and 29-31 are drawn to the species of 4-amino-5-(4-chlorophenyl)-7-(t-butyl) pyrazolo [3,4-d] pyrimidine (AGL 1879),

Claims 1-5, 7, 10-16, 18, 21-25, 29-30, and 32 are drawn to the species of geldanamycin,

Claims 1-5, 7, 10-16, 18, 21-25, 29-30, and 32 are drawn to the species of herbimycin A,

Claims 1-5, 7, 10-16, 18, 21-25, 29-30, and 32 are drawn to the species of Radicicol R2146,

Claims 1-5, 8, 10-16, 19, 21-25, and 29-30 are drawn to the species of PD173955 and

Claims 1-5, 9-16, 20-25, 28-30 and 33 are drawn to the species of SKI-606

The following claim(s) are generic: 1-7, 10-18, 21-27, and 29-32.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the only shared technical feature among each of the above species is that they are all Src kinase inhibitors being used for the treatment of myocardial infarction. However, this shared technical feature does not constitute a special technical feature as defined by

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PCT Rule 13.2 as it does define a contribution over the art.

Feng et al. (US Patent 5,731,343) and Hirst et al. (US Patent Application 2002/0156081) each teach the treatment of myocardial infarction using compounds disclosed as a Src kinase inhibitor.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca E. Prouty whose telephone number is 571-272-0937. The examiner can normally be reached on Tuesday-Friday from 8 AM to 5 PM. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rebecca Prouty/
Primary Examiner
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